IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 16791 of 2003

Between:

1 Ranaboth Laxmamma, W/o. Somi Reddy
Occ: Agriculture, Repala Village, Munagala Mandal,

Nalgonda Dist.
2 Arakatla Seetharam Reddy, S/o. Laxma Reddy
Occ: Agriculture, Repala Village, Munagala Mandal,

Nalgonda Dist.

..... PETITIONERS

AND

1 The Govt. of A.P. Revenue Department rep by its Secretary,
Secretariat, Hyderabad
2 The District Collector, Nalgonda, Nalgonda Dist.
3 The Revenue Divisional Officer, Suryapeta, Nalgonda Dist.
4 The Mandal Revenue Officer Munagala Mandal, Nalgonda Dist.
5 Chityala Narsi Reddy, S/o.Veera Reddy
O/o. the Mandal Development Office, Mothe Mandal,
Nalgonda Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more particularly one in the nature of Writ of Mandamus declaring the proceedings issued by the 4th respondent in No.B/1417/03 dated 22-07-2003 as illegal, arbitrary and contrary to the procedure provided under the A.P. Water, Land and Trees Act 2002 and Rules made thereunder.

Counsel for the Petitioners: MR.A.SATYA PRASAD

Counsel for the Respondent Nos.1to4: GP FOR REVENUE

Counsel for the Respondent No.5: Mr. A. Anantha Reddy

The Court made the following ORDER:

Heard both sides and at their request the main writ petition itself is taken up for final disposal.

The petitioners filed this writ petition *inter alia* seeking writ of mandamus challenging the impugned proceedings dated 22.07.2003 as illegal.

The case of the petitioners is that they dug bore well in their own land and the respondents are threatening to close down the said bore well. The fourth respondent passed the impugned order without issuing any notice and opportunity to the petitioners. Hence, this writ petition.

Learned counsel appearing on behalf of the fifth respondent submits that the petitioners are not entitled to dug a new bore well, as per Rule 12(1) of the A.P. Water, Land and Trees Act, 2002 (Act 10 of 2002). Therefore, prima-facie, there is absolutely no sustainability in the claim of the petitioners and sought for dismissal of the writ petition.

After taking into consideration the submissions made on either side and also on perusal of the material available on record, it is seen that there is no dispute to the fact that the petitioners have dug a bore well in their own land. The fourth respondent acting through fifth respondent passed the impugned orders in exercise of powers under Act 10 of 2002 for closing down the said bore well. There is also no dispute to the fact that the petitioners bore well is a new one and however, having regard to the same and also objections made by the respondents herein, the same requires for proper consideration only after giving notice and opportunity to the petitioners. It is the case of the petitioners that the respondents passed the impugned order without giving any notice or opportunity of being heard which is in violation of the principles of natural justice.

Under the above circumstances, the writ petition is allowed and the impugned order is set aside. The fourth respondent is directed to pass fresh orders on merits, in accordance with law, after giving notice and opportunity to the petitioners, within a

period of one month from the date of receipt of a copy of this order.

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B. Prakash Rao, J

Date: 25.10.2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, the twenty fifth day of October, Two Thousand and Four.

To

1 The Secretary, Govt. of A.P. Revenue Department,
Secretariat, Hyderabad
2 The District Collector, Nalgonda, Nalgonda Dist.
3 The Revenue Divisional Officer, Suryapeta, Nalgonda Dist.
4 The Mandal Revenue Officer Munagala Mandal, Nalgonda Dist.

5 Two CCs to G.P for Revenue, High Court of A.P. Buildings, Hyderabad (OUT)

6 Two CD Copies